

IN THE SUPREME COURT OF OHIO

MARIAH CRENSHAW,)

RELATOR)

3472 E 114th Street)

Cleveland, Ohio 44104)

VS.)

THE CUYAHOGA COUNTY)

BOARD OF ELECTIONS,)

&)

HENRY F. CURTIS,)

CHAIRMAN)

&)

INAJO CHAPPELL,)

BOARD MEMBER)

&)

TERRANCE M. MCCAFFERTY,)

BOARD MEMBER)

&)

LISA M. STICKEN,)

BOARD MEMBER)

&)

ANTHONY W. PERLOTTI,)

DIRECTOR)

&)

ANTHONY KALOGER,)

DEPUTY DIRECTOR)

&)

BRENT LAWLER,)

PETITION MANAGER)

RESPONDENTS)

2925 Euclid Avenue)

Cleveland, Ohio 44115)

**PETITION FOR WRIT OF MANDAMUS PURSUANT TO OHIO SUPREME
COURT RULE OF PRACTICE 12.08 *EXPEDITED ELECTION CASE* &
MOTION FOR AN INJUNCTION AND DECLARATORY JUDGMENT**

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Elections, *et al***
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Now comes Relator, Mariah S. Crenshaw, *Pro se*, (hereinafter referred to as “Relator”) in the above aforementioned captioned case and pursuant to Ohio Supreme Court Rule of Practice 12.08, an expedited elections case, seeking a *writ of mandamus* against The Cuyahoga Board of Elections, *et al*, Respondents (hereinafter referred to as “BOE”) to enforce the City of Cleveland Charters’ prerequisites for candidates who are seeking to be elected within the municipality in *at-large* judicial and Clerk of Courts races in the upcoming November elections and to decertify all those persons who failed to comply with Section 3, Chapter 3 of the Charter. Relator seeks an injunction and a declaratory judgment against Respondents to immediately remove all candidates who failed to comply with the City of Cleveland Charter provisions regarding being an elector of the City of Cleveland, residency, and signature prerequisites when running for *at-large* municipal elections.

Relator states Brent Lawler (hereinafter referred to as “Lawler”) has served the BOE as the Manager of Candidates Petitions for approximately twenty three (23) years

and during his tenure as manager, has failed his duties to ensure persons interested in seeking municipal elected office(s) within the City of Cleveland had complied with the mandates and provisions of the City of Cleveland Charter (hereinafter referred to as "Charter") and the general law statute requirements of residency and signature requirements which do not conflict and work in correlation with one another.

Relator further states Lawler in his capacity as petition manager failed to inform and or direct candidates to refer to the Charter when needing additional requirements per the plain language of the Charter and the directive of Frank LaRose, Secretary of State, (hereinafter referred to as "SOS" and or "LaRose") for candidates interested in running in the municipality for the offices of municipal court judge and Clerk of Courts (hereinafter referred to as "COC") and the BOE Respondents failed its statutorily required duties to investigate, decertify candidates, remove them from the ballots, and to remove Lawler when notified of the failure to comply with laws and charter provisions governing municipal *at-large* races within the municipality.

Relator argues this issue more fully in the attached brief and in the interest of jurisprudence prays for a favorable ruling in the instant matter.

Humbly submitted,

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I. Background

1. Municipalities derive their powers of self-government directly from Section 3, Article XVIII of the Ohio Constitution, which provides:
“Municipalities ***shall*** have authority to exercise all powers of local self-government *and to adopt and enforce within their limits* such local police, sanitary *and other similar regulations, as are not in conflict with general laws.*” See, also, W. Jefferson v. Robinson (1965), 1 Ohio St.2d 113, 30 O.O.2d 474, 205 N.E.2d 382, paragraph one of the syllabus. The court of appeals correctly set forth the three-part test to determine whether a provision of a state statute takes precedence over a municipal ordinance. A state statute takes precedence over a local ordinance when (1) the ordinance is in conflict with the statute, (2) the ordinance is an exercise of voting rights and powers rather than of local self-government, and (3) the statute is a general law. See Ohio Assn. of Private Detective Agencies, Inc. v. N. Olmsted (1992), 65 Ohio St.3d 242, 244-245, 602 N.E.2d 1147, citing Auxter v. Toledo (1962), 173 Ohio St. 444, 20 O.O.2d 71, 183 N.E.2d 920.
2. Relator has a clear legal right to request relief and Respondents have clear legal duties imposed upon them by statute and the City of Cleveland Charter,
3. Relator does not have any other remedy at law to receive relief.
4. Relator is a resident of the municipality and has a vested interest in the municipal courts and those persons who are elected to office and has sufficient legal standing to bring this cause of action. Relator had every

right and interest in protesting persons who did not comply with the plain language of the Charter who sought elected offices in the municipality in which she resides and Respondents have statutorily imposed duties to ensure municipal elections are protected from corrupt and unlawful practices.

5. Relator states the BOE abused its discretion and acted in clear disregard to applicable law as voiced by the voters in 2019 which set **prerequisites** for persons interested in seeking elected office in the municipality when denying the protests.
6. The BOE relied upon a flawed legal opinion by the City of Cleveland Law Director that failed to address the totality of requirements set forth in the City Charter thereby not providing the board with a full analysis of the plain language of the city charter. (See Exhibits 1 and 2)
7. The BOE should not have relied on the insufficient analysis for the failure to determine if the residency and other such provisions within the charter requirements applied to candidates in the *at-large* races. The BOE has a duty to understand the Charter and apply it accordingly regarding elections.
8. The plain language of the Charter and general laws governing judicial and clerk of court races do not conflict and the BOE failed to discuss the language in the protest hearing while relying on an erroneous legal opinion from the City Law Director, Mark Griffin, (hereinafter referred to as “Griffin”) who failed his duty to protect the voice of the residents by and through the Charter and amendment passage of 2019.

9. Griffins' opinion defers to the Village of Bratenahl which under auspices utilizes the City of Cleveland Municipal Court determining the court is multijurisdictional which is not relevant or pertinent to the elector, residency, and signature requirements of the Charter.
10. The Village of Bratenahl has a Mayors' court and therefore the usage of the Cleveland Municipal Court would have jurisdiction over misdemeanors. There is no relevance to the prerequisites of electors vying for *at-large* municipal races and only deflected to the provisions set forth in Section 3, Chapter 5 of the municipal charter.
11. Relator requested the BOE obtain an opinion from the SOS who directed candidates and the election authorities to ensure they obtained the additional requirements as stated in the Charter after Lawler provided the opinions to the candidates and not to the citizens who protested the candidacies. Relator submitted a public records request to obtain Griffins' legal opinions.
12. The BOE failed to obtain an opinion from the SOS, or comply with the already established directives of the SOS and BOE policy, which incorporated the SOS directive, knowing there is no established case law on the city charter prerequisites and that any opinions would have to refer to the plain language of the city charter.¹
13. Griffin alludes to statutes governing the establishment of municipal courts which are not relevant to the prerequisites for elector, residency, and

¹ SOS printed a guide for candidates in October 2022 directing each person interested in seeking judicial seats in certain municipalities to ensure they meet the additional requirement for signatures and deadlines. *Candidate Requirement Guide 2023, pages 12 & 13.*

signature requirements as set forth in the charter and who are running *at-large* for municipal races in the City of Cleveland and ignores the provisions set forth in Chapter 3.15 of the City Charter which clearly defines the limitations of general laws involving the municipal elections.

14. The plain language of the charter regarding *at large* races and residency requirements do not conflict with general laws but compliment one another. The BOE and Griffin ignored the ***prerequisites*** for candidates which they have no legal authority to do and the provision of 3.15 which clearly expresses exceptions to general laws.
15. Relator states multiple protests were timely and properly filed with the BOE by citizens who reside in the municipality and are electors of the city. The BOE scheduled a hearing on the protests August 29, 2023 at 9:30 am.
16. Relator and citizen Jeffrey Mixson (hereinafter referred to as "Mixson") collectively filed protests against nine (9) candidates seeking elected office within the municipality in two (2) of the *at-large* election races.
17. Relator and Mixson are lifelong residents of the City of Cleveland, Cuyahoga County and were protesting the requisite number of signatures for *at large races* per the Charter for the following candidates:
 - Jeffrey Johnson, Judicial Candidate (did not obtain the 3,000 signatures of electors of the City)
 - Shiela Turner-McCall, Judicial Candidate and Incumbent (did not obtain 3,000 signatures of electors of the City in the current and or previous races)

- Heather McCollough, Judicial Candidate (did not obtain the 3,000 signatures of electors of the City)
- Jocelyn Conwell, Judicial Candidate (did not establish the required 12 months residency, city elector requirements, and failed to obtain 3,000 signatures of the city electors)
- Sydney Strickland-Saffold, Judicial Candidate (did not obtain the 3,000 signature of electors)
- Joseph F. Russo, Judicial Candidate (did not obtain the 3,000 signatures of electors)
- Martin Sweeny, Clerk of Courts² (did not obtain the 3,000 signatures of electors)
- Earl B. Turner, Clerk of Courts. Incumbent (did not obtain the 3,000 signatures of electors) (See Exhibit **3**)

18. Relator protested all but two (2) of the above candidates.³ Jeffrey Johnson, (hereinafter referred to as “Johnson”) filed a protest against his opponent Mark Majer (hereinafter referred to as “Majer”) in the upcoming election citing he had not complied with the requisites of the Charter in regards to the twelve (12) consecutive months residency within the municipality prior to the election within the provisions set forth in Section 3, chapter 5 of the Charter.

19. The BOE denied all protests in regards to the plain language of the Charter and therefore Relator has brought this to the High Court to direct the BOE

² Mr. Sweeny withdrew his candidacy on August 29, 2023, the last day for candidates to withdraw. Mr. Sweeny did not respond to the protest or attend the hearing.

³ Shiela Turner McCall and Jeffrey Johnson were protested by Mixson.

to enforce the voice of the residents who passed the charter change in 2019 by a resounding seventy nine (79%) percent, to decertify all candidates who failed to present the three thousand (3,000) candidate for *at-large* races, who did not meet the residency requirements and to render a declaratory judgment in favor of Relator and all the electors of the City of Cleveland.

20. Relator further states in the last twenty three (23) years no one has ever fact checked, questioned, and or protested the requirements and the BOE does not have any case law to rely upon when hearing such cases therefore it is imperative this High Court determine if the BOE acted within the scope of their duties and the provisions of the City Charter, when allowing candidates running *at-large* to meet only the general law minimum requirements and not the prerequisites set forth in Section 3 Chapter 5 of the Charter while ignoring section 3.15 exceptions and directives of how general laws were to be applied in municipal elections.

21. Lawler failed to enforce the residency requirements for electors who did not reside within the required time frame of the Charter requirements prior to the allowing submission and certifying of petitions and candidacy in the *at-large* elections.

II. The City of Cleveland Charter requirements for Candidates who elect to Run within the municipality prior to Nomination

22. Relator incorporates paragraphs 1-21 above as if sully rewritten therein.

23. Relator states the clear language of the Charter was ignored, negated, and excluded from the decision of the BOE when denying the protests thereby voiding

the voices of the seventy nine (79%) of the residents who passed the language in 2019.

24. Lawler, who has a duty to ensure the language was enforced when serving as the manager of candidates petitions, has shown a deliberate indifference to the Charter during his tenure and admittedly allowed persons to submit the state minimum required fifty (50) signatures pursuant to the general laws of RC 1901.07 ignoring the provisions of Section 3.15 of the Charter.

25. Relator, further states the specific language of the Charter has remained the same since 1931 and the language regarding *at-large races* and the only additional inclusions in the 2019 ballot requirements were to be an elector of the city and twelve (12) consecutive months residency prior to an election for those running for elected office within the municipality.

26. The Charter clearly instructs those running in *at-large* races for the elected offices to obtain the required three thousand (3,000) signatures of the city electors. Relator states this would include judicial and clerk of courts candidates.

27. RC 3.15 requires persons elected to office reside within the jurisdiction *during* their tenure in office. The City of Cleveland Charter adds a prerequisite for persons to be 1) an elector of the municipality, and 2) to have resided within the city for twelve (12) consecutive months **prior** to the election. There is no conflict between the language of the statute and the charter as one is a requisite for prior to and the other for after elected to office. RC Section 1901.06 states in part, “(A) A municipal judge during the judge's term of office shall be a qualified elector and a resident of the territory of the court to which the judge is elected or appointed...”.

28. The protests were in regards to **prerequisites** set forth in the Charter and therefore the BOE violated the Charter by alluding to requirements not yet applicable to candidates who had not been elected to office.

29. Griffin abused his office when rendering the erroneous opinion which negated the provisions of the Charter section 3.15. The BOE relied upon the statute 1901.06 (C) Notwithstanding divisions (A) and (B) of this section, in the following municipal courts, the judges shall be nominated and elected as follows:

(1) In the Cleveland municipal court, the judges shall be nominated only by petition. The petition shall be signed by at least fifty electors of the territory of the court. It shall be in the statutory form and shall be filed in the manner and within the time prescribed by the charter of the city of Cleveland for filing petitions of candidates for municipal offices. Each elector shall have the right to sign petitions for as many candidates as are to be elected, but no more. The judges shall be elected by the electors of the territory of the court in the manner provided by law for the election of judges of the court of common pleas.

30. Relator states the prerequisites do not conflict with the RC in any manner. The statute sets forth the minimum standard of signature requirements when the Charter is silent. The language of the statute does not exclude or exempt candidates running in judicial races from obtaining the charter requirements of three thousand (3,000) electors of the city in the *at-large* races.

31. The statute and the Charter work together and are not independent of one another. The language in the Charter dictates the judicial candidates and clerk of courts who are two (2) of the only three (3) *at-large* races in the municipality.

32. Therefore the Charter language prevails determining the prerequisites for municipal races which are inclusive of judges and clerk of courts.

III. Previous language of the City Charter and Current language

33. Relator incorporates paragraphs 1-32 above as if fully rewritten therein.

34. Relator relies upon the current language of the Charter reads as follows:

City of Cleveland Charter Section 3, chapter 5:

Nominating Petitions states:

“The name of any elector of the City shall be printed upon the ballot, when a petition in the form prescribed in this Charter is filed in the elector's behalf with the election authorities, and the elector has been an elector of the City for at least twelve (12) consecutive months immediately prior to the next regular Municipal election or the next election, as required by law or Charter, whichever occurs first. Such petition shall be signed by at least three thousand (3,000) electors of the City, for the nomination of a candidate for an office filled by election from the City at large, and by at least two hundred (200) electors of the ward if for the nomination for an office to be filled by election from a ward. (Effective November 5, 2019)”

Former language of the Charter:

“The name of any elector of the city shall be printed upon the ballot, when a petition in the form hereinafter prescribed shall have been filed on his behalf with the election authorities. Such petition shall be signed by at least three thousand (3,000) electors of the city, if for the nomination of a candidate for office filled by election from the city at large, and by at least two hundred (200) electors of the ward if for the nomination of a candidate for an office to be filled by election from a ward.” (See Exhibit ~~4~~)

35. Relator states the additional requirements of a potential candidate is clear and there is no ambiguity or conflict with general laws which are not applicable when reviewing section 3.15 of the Charter.

36. The City of Cleveland (hereinafter referred to as “City”) has three (3) *at-large* municipal races: Mayor⁴, Judicial Candidates, and Clerk of Courts. Currently there are no *at-large* races for City of Cleveland Council members therefore the language directly applies to the three (3) municipal races cited above. The previous and current language of the Charter includes judicial candidates and clerk of courts races because every elector in the municipality will have the opportunity to vote for each office.

37. Judges and Clerks do not run for wards and a reasonable mind can come to but one conclusion; they are subjected to the Charter language of “*at-large*”. Judges preside over the entire municipality and the Clerk of Courts also serves the residents of the city. The language does not conflict with any general laws and each candidate is required by law to obtain three thousand (3,000) signatures for the *at-large* races, be an elector of the city and maintain residency for twelve (12) consecutive months prior to the election.

38. Relator emphasizes there is no general law which excludes, exempts, or conflicts with the mandates of the Charter for either of the *at-large* races in question as set forth in Griffins’ legal opinion. The BOE clearly abused their discretion by denying the protests when relying on an erroneous legal opinion that excluded the plain language of the Charter which directs the BOE *when* to apply general laws.

⁴ Current Mayor Justin Bibb submitted over 5,000 signatures in the at large race as required by the provision in the Charter.

39. The BOE relied upon the insufficient legal opinion of Griffin when denying the protests which is a violation of statutory duties imposed on them to ensure the integrity of elections is protected.

40. The BOE "acted in clear disregard of applicable laws", by not invalidating the general laws of the state where the Charter language has clear provisions of when the general laws *do* apply.

41. The Charter and a directive[s] from the SOS that instructed Lawler and candidates for the Cleveland Municipal court to refer to Cleveland's charter for candidates qualification instructions. The directive implies a complete review of the City Charter and would include section 3.15 which directs when general laws should be applied to elections and exceptions.

42. Relator states had Lawler properly reviewed the entire Charter in relation to elections, complied with the directives of the SOS, and the plain language of the Charter, the candidates and the BOE would have found "when" general laws of the state are applicable pursuant to Chapter 3, Section 15 of the Charter which states: "3.15 **General Laws to Apply.** *All elections provided for by this Charter, whether for the choice of officers or the submission of questions to the voters, shall be conducted by the election authorities prescribed by general law of the State;* and the provisions of the general election laws of the State shall apply to all the elections **except as provision is otherwise made by this Charter, and except** further that the Council may, by ordinance, provide measures to promote and insure the purity and integrity of the ballot, and against corrupt practices in elections." The Charter clearly states the exception to the general law lies within the provisions of the city's charter and not in the statute.

43. As a home rule city, *voters have determined when the state's general laws* apply regarding elections. The exception is when they conflict with the charter or an ordinance of council. Griffin omitted this reference in his legal opinion and failed to address the residency requirements in the flawed legal opinions.

44. Griffin further failed to address instructions in Section 3.5 and 3.10 of the charter where he is guided by Section 733.57 of the Ohio Revised Code is applicable. A city director of law is required to apply for the "specific performance" of an avoided public duty; and not argue against the performance of a statutory duty.

45. Griffin clearly argues in favor of the candidates who failed to comply with the charter provisions and did not protect the electors who resoundingly passed the legislation in 2019 rendering the prerequisites moot which he has no legal authority to do. The BOE using the opinion to deny the protests violated their statutorily imposed duties.

46. Ultimately the candidates, duly licensed attorneys seeking judicial office had a duty to be familiar with the plain language of the Charter and to ensure the compliance with the City charter prerequisites. Relator states it is disheartening to see so many attorneys willing to abuse Lawlers' failures to enforce the very Charter they would be elected to enforce as municipal court judges. The conduct of the attorneys is egregious to justice and impugned the integrity of the elections and the offices in which they seek. Canons of a judge require they uphold the law and ensure public trust in the courts. The candidates fail to provide that trust when negating the plain language of the Charter.

47. The candidates had a further duty to question Lawler regarding the three thousand (3,000) signatures for *at-large* races which the SOS directs candidates to refer to the provisions of the municipal charter for additional requirements and therefore the

public at large cannot depend on fair, accurate, and integral persons who would occupy the benches within the municipality.

48. Relator relies on the plain language of The Charter 3.10 Selection of Candidates. *The number of candidates for **any office at any regular Municipal election in the City at large or in each ward**, as the case may be, shall be the two candidates on the primary election ballot receiving the highest number of votes at the primary election. In case there shall not be for any office more than two persons who shall have filed petitions as provided for in this Charter, then said persons shall be the candidates at the regular Municipal election and the primary for the particular office shall not be held. The name of each person who is *nominated in compliance herewith* shall be printed on the official ballot at the general election, and the names of no other candidates shall be printed thereon.*

49. The High Court must also consider Griffin failed to include these provisions in the flawed legal opinion. Article 1.18 of the Constitution of Ohio (hereinafter referred to as "Constitution") is captioned, "Suspension of laws" and clearly instructs officials they have no duty or authority to suspend a law. Griffin's opinion and Respondents who relied upon it have in essence suspended the laws of the statute and Charter. The Constitution states, "**No power of suspending laws shall ever be exercised, except by the general assembly.**" Griffin and the BOE have no legal authority to suspend the plain language of the Charter that was passed by the electors of the municipality.

50. The BOE violated the rights of the electors who passed the amendment to secure the integrity of the municipal races and the protesters who sought to enforce the plain language of the Charter.

51. In exercising his duties as the Secretary of State, the current officer has instructed election officials and candidates to refer to Cleveland's charter for qualifications instructions. Disregarding every law within the Charter and statute, Griffin abused his Office which has no authority to suspend the language and has a clear duty to enforce all of the provisions no matter the potential outcome.

52. The members of the board acted to conceal the misconduct of an elections employee who had obstructed the enforcement of Cleveland's charter for the past 23 years when denying the protests. Regrettably, Lawler admitted that he had possibly been wrong and that each candidate he certified with the fifty (50) signatures should be decertified by the BOE. It's not the board's duty to fix an employee's misconduct but to adhere to the plain language of the city charter, revised codes which impose specific duties on the election authorities, and to decertify those that did not comply with the prerequisites set forth in the Charter for candidates in *at-large* municipal elections.

53. Relator states it is the board's statutory duty to investigate Lawlers' neglect to perform a duty imposed on him by law to and to "refer to Cleveland's charter" for any *at-large* election of an officer within the municipal corporation which has been in place since 1931. It is understood that executing this duty comes with the decertification of all candidates, and not just those protested by Relator and Mixson, who failed to comply with the three thousand (3,000) signature requirements which citizens protested and those who had not been identified but were certified by Lawler in violation of the plain language of the Charter.

54. Lawler's duty was to stop candidates at the proverbial door that did not meet the Charter requirements of:

- a. Being an elector of the City for at least twelve (12) consecutive months prior to the next municipal election, and
- b. Three thousand (3,000) signatures for candidates in *at-large* races.

Lawler could have avoided all of the conflict simply by following the SOS directive to check the language of the City Charter.

55. Relator reiterates the BOE and Griffin cannot legally suspend state and local laws and directives instructing them to refer to Cleveland's charter, the board's members cannot avoid or ignore their duties to investigate the misconduct and rule that **none**⁵ of the *at-large* candidates for judge and clerk of Cleveland's municipal court met the prerequisite to obtain the three thousand (3,000) signature qualification to appear on the ballot while others were not electors of the city and had not met the twelve (12) month residency requirement.

56. Relator relies upon R.C. 3599.16 Misconduct of member, director, or employee of board of elections - **dismissal**. No member, director, or employee of a board of elections shall: (A) Willfully or negligently violate or neglect to perform any duty imposed upon him by law, or willfully perform or neglect to perform it in such a way as to hinder the objects of the law, or willfully disobey any law incumbent upon him so to do;(B) Willfully or knowingly report as genuine a false or fraudulent signature on a petition or registration form, or willfully or knowingly report as false or fraudulent any such genuine signature;...(E) Act as an election official in any capacity in an election, except as specifically authorized in his official capacity;(F) In any other way willfully and knowingly or unlawfully violate or seek to prevent the enforcement of any other provisions of the election laws. Whoever violates this section

⁵ Candidate Heather McCollugh and Lawler stated within the hearing none of the current candidates running in the at large races had submitted more than one hundred fifty (150) signatures.

shall be dismissed from his position as a member or employee of the board and is guilty of a felony of the fourth degree.

57. Lawler acted as an election official and with deliberate indifference to the Charter requisites, when he accepted and certified the state minimum requirements and failed to direct the candidates to the plain language of the charter requiring *at large* offices the three thousand (3,000) signatures of electors of the city broke the law.

58. Lawler further ignored the mandates established since 1931 in regards to *at-large* races in the municipality which he had a clear duty to enforce. Lawler had no legal authority to certify candidates in *at-large* races during his tenure that submitted a mere fifty (50) signatures by statute or the City Charter where the Charter rules over the statute as provided in section 3.15.

59. In the instant matter Griffin and the BOE unlawfully voided the voice of electors of the municipality and voided the legal prerequisites set forth by the Charter for *at-large* candidates vying for municipal offices and therefore a writ of mandamus would be appropriate in the instant matters.

60. The BOE instead of addressing the negligent and deliberate indifference of Lawler who by his own admittance has always allowed candidates running in *at-large* judicial and clerk of courts races in violation of the Charter and to comply with the minimum requirements of the general laws as required elected to allowed multiple candidates who had failed to comply with the municipal Charter to advance forward in the upcoming elections.

61. A reasonable mind can conclude by allowing the candidates to advance forward taints the election process **before** it ever reaches the voters.

62. Griffin and the BOE failed to cite one (1) provision in the general laws and or the Charter which excludes and or exempts candidates running in the *at-large* municipal races to comply with residency and signature requirements.

63. Petitioner states Griffin cites minimal requirements and ignores the maximum prerequisites of the Charter. Griffin does not offer one case law to support the opinion to suspend the laws governing candidates for judicial races. There is no such language which excludes or exempts candidates seeking judicial office and clerk of courts from the *at large* language of the charter which this High Court can rely on.

64. A review of RC 1901.07 and 3313.15, general laws, a reasonable mind can conclude that they violate the Home-Rule Amendment, Section 3, Article XVIII, of the Ohio Constitution and, as such, must be struck down as a clear violation of the home rule when determining if judicial races fall within the *at-large* prerequisites of the City of Cleveland Charter. Respondents have no legal authority of statutorily imposed duty to apply the statute over the clear and unambiguous language of the Charter.

65. Respondents have a statutory duty to uphold the Charter and to obey the voice of the seventy nine percent (79%) of the City electors who chose to impose specific prerequisites for candidates seeking public office within the municipality. Respondents failed that duty.

66. Historical records show since 1929, Courts have held that general laws are enacted by the General Assembly “**to safeguard the peace, health, morals, and safety, and to protect the property of the people of the state.**” Schneiderman v. Sesanstein (1929), 121 Ohio St. 80, 82-83, 167 N.E. 158. Moreover, general laws “apply to all parts of the state alike.” Id. at 83, 167 N.E. 158. In Schneiderman, the court held that a statute setting speed limits throughout Ohio was a general law. In a landmark

home-rule case in 1965, The Ohio Supreme Court considered a municipal ordinance prohibiting uninvited solicitation of orders for the sale of goods in private homes and a state statute that barred municipalities from enacting such ordinances. See W. Jefferson v. Robinson, 1 Ohio St.2d 113, 30 O.O.2d 474, 205 N.E.2d 382. The High Court held that the statutes in question, R.C. 715.63 and 715.64, which prohibited municipal corporations from requiring licenses to sell certain products, purport only to grant and to limit legislative power of municipal corporations to adopt or enforce police regulations. The Court further concluded that, as such, the statutes were not “general” laws. Therein lies the difference.

67. The provisions in 1901.07 are general laws and are only applicable when municipal charters are silent. Clevelands’ charter speaks loudly, clearly, and resoundingly on the issues of what an elector is, residency, and signature requirements. The SOS directs candidates to review specific municipal charters for additional provisions regarding deadlines and signatures. The SOS states on page 13 of the candidates guide the following notes:

“Signature Requirements: Note: In certain charter municipal corporations, the petition, **signature or filing requirements may differ**. Please review the appropriate Revised Code or charter provisions for requirements specific to your court.” and “By nominating petition only: Municipal courts specified in R.C. 1901.07(C)(1)-(6): Akron, Cleveland, and Toledo municipal courts; and the Auglaize, Brown, Carroll, Clermont, Crawford, Franklin, Hamilton, Hocking, Jackson, Lawrence, Madison, Miami, Morrow, Paulding, Perry, Putnam, Sandusky, and Wayne county municipal courts. Note: An individual who is interested in being a candidate for the Akron, Cleveland, or Toledo municipal court or the Franklin County municipal court are

encouraged to review the municipality's charter for the appropriate filing deadline and any additional filing requirements."

68. The SOS of state clearly directed the candidates and the BOE to refer to the language of the municipal Charters. For example, Toledo's charter refers to the state statute for the minimum fifty (5) signatures which is a clear contrast to the City of Cleveland's requisites of three thousand (3,000) required electors signatures on the nominating petitions.

69. Another example is The City of Akron Charter states "SECTION 4. - NOMINATIONS.

"Candidates for all offices to be voted for at any municipal election under the provisions of this Charter shall be nominated at a primary election to be held on the first Tuesday after the first Monday in May prior to such municipal election; the method of nomination and procedures for the *same shall be in conformity with the state law on the subject of nominations for public office, and the results certified in like manner.*"

70. In contrast to the City of Cleveland's Charter where the plain language speaks to candidates running for elected office in *municipal* races to comply with language of the Charter and not the general laws which are the minimum fifty (50) signatures.

71. Griffin relied on general laws and failed to incorporate, protect, and enforce home rule as in surrounding municipalities which have the same and similar language governing *at-large* races and where the Charter clearly states the provision within will rule over the general rules of the statute. Respondents failed their duties to fact check Griffin's legal opinions to the requirements of the Charter provisions before accepting it as the final authority.

72. Relator states the Court in Ohio Assn. of Private Detective Agencies, Id. struck down an ordinance attempting to exact a fee for the registration or licensure of private investigators because it *conflicted with a statewide regulatory program, R.C. Chapter 4749*. Id. at syllabus.

73. In settling the question of generality, the court continued to view statutory schemes in their entirety, rather than a single statute in isolation, and continued to determine whether the statutes promoted “statewide uniformity.” In viewing the general laws regarding judicial elections the revised code promotes a minimum standard which would only apply in those instances where charters were silent and are void of specific provisions.

74. Griffin isolates the state statutes and ignores the plain language of home rule and the BOE relied upon the flawed opinions to deny the protests. Laws work in correlation to one another, enhance one another, and fill in blanks when there are questions of law not cancel one another out as Griffins’ opinions do.

75. Griffins’ opinion and the failure of the BOE to incorporate the plain language in regards to residency and signature requirements violates the statute and the charter which work together and are not independent of one another.

76. The court of appeals correctly set forth the three-part test to determine whether a provision of a state statute takes precedence over a municipal ordinance which is not included in Griffins’ opinion. The three (3) prongs are: “*A state statute takes precedence over a local ordinance when (1) the ordinance is in conflict with the statute, (2) the ordinance is an exercise of voting rights and powers rather than of local self-government, and (3) the statute is a general law.*”⁶ In the instant matter there

⁶ See *Ohio Assn. of Private Detective Agencies, Inc. v. N. Olmsted* (1992), 65 Ohio St.3d 242, 244-245 *Auxter v. Toledo* (1962), 173 Ohio St. 444, 20 O.O.2d 71, 183 N.E.2d 920

is no conflict, the Charter prerequisites do not involve the exercise of voting rights or powers but are directly related to self-governance, and the statute is a general law and the Charter clearly addresses when general rules are to be applied.

77. The general law sets forth a minimum requirement of fifty (50) signatures. This does not conflict with the additional requirement for *at-large* races which would in this instance require the judicial candidates and clerk of courts to obtain and submit to the BOE because both the statute and the charter require signatures. Respondents created signature requirements that are not in tandem with either the general laws and or Charter which is the prevailing rule governing municipal elections.

78. In reviewing RC 1901.07(B) which states in part: "... all candidates shall be nominated **in the same manner provided in the charter for the office of municipal court judge** or, *if no specific provisions are made in the charter for the office of municipal court judge, in the same manner as the charter prescribes for the nomination and election of the legislative authority of the municipal corporation.*" The plain language of the Charter specifies *at-large* elections which judges and clerks of courts clearly fall subject to or in the alternative each candidate would have to obtain two hundred (200) signatures City Council is required to obtain and not the minimum of fifty (50) accepted by Lawler if Respondents were to rely on the general law. Relator states because the judicial races fall into the *at-large* category the three thousand (3,000) signatures would be required per the plain language of the charter and statute. In either instance the candidates certified by Lawler did not meet either of the requirements for signatures. Respondents unlawfully set a minimum of One hundred fifty (150) signatures for candidates and each candidate submitted the number which

was less than the required three thousand (3,000) and or in the alternative two hundred (200) depending on which rule or law this High Court would deem is the requirement.

79. Other examples are the Cities of Euclid and Cleveland Heights charters which include the same *at-large* language with the exception of a required percentage of electors signatures in contrast to the City Charter of three thousand (3,000).

80. Relator states the candidates running *at-large* in those races for judicial seats complied with the requisites of the city charters and submitted over fifty (50) signatures to the BOE for the upcoming elections which refutes any argument the statute prevails over the home rule requirements and that Respondents unlawfully set the requirement for Cleveland municipal *at-large* elections at One hundred fifty (150).

81. Lawler accepted the petitions which exceeded the fifty (50) signatures of the general law without question to comply with the similar language of the surrounding city charters. Lawler failed to familiarize himself with the **totality** of Cleveland's Charter and therefore when providing information to candidates in *at-large* races he relied solely on the general law which Cleveland's charter does not recognize and provides clear exceptions.

82. Cleveland voters passed the amendment to ensure persons committed to the municipality would comply with the first mandate of law pursuant to the Charter provisions for judicial officers *prior* to being elected. How can the residents of Cleveland be confident in those persons who had failed to comply with the prerequisites to be fair and impartial on the bench when they are not familiar with the Charter of the City prior to being elected and compliant themselves? They cannot and the prerequisites are in place to ensure the persons who are elected are ethical and knowledgeable regarding laws in place which govern the municipality. Clearly none of the licensed attorney

candidates reviewed the Charter and failed to question Lawler about the requirements and took advantage of the abuse of Respondents.

83. It is clear Lawler did not adhere to the directives of the SOS in the candidates guide and the revised code which directs the duties of the BOE.

84. The BOE's duties are set forth in part and where emphasis added RC Section 3501.11 - Board duties. Each board of elections shall exercise by a majority vote all powers granted to the board by Title XXXV of the Revised Code, shall perform all the duties imposed by law, and shall do all of the following:

(D) Appoint and remove its director, deputy director, and employees and all registrars, precinct election officials, and other officers of elections, fill vacancies, and designate the ward or district and precinct in which each shall serve; (E) Make and issue rules and instructions, not inconsistent with law or the rules, directives, or advisories issued by the secretary of state, as it considers necessary for the guidance of election officers and voters; (F) Advertise and contract for the printing of all ballots and other supplies used in registrations and elections; ...*(J) Investigate irregularities, nonperformance of duties, or violations of Title XXXV of the Revised Code by election officers and other persons; administer oaths, issue subpoenas, summon witnesses, and compel the production of books, papers, records, and other evidence in connection with any such investigation; and report the facts to the prosecuting attorney or the secretary of state;* ***(K)(1) Review, examine, and certify the sufficiency and validity of petitions and nomination papers, and, after certification, return to the secretary of state all petitions and nomination papers that the secretary of state forwarded to the board;*** ***(2) Examine each initiative petition, or a petition filed under section 307.94 or 307.95 of the Revised Code, received by the board to determine***

whether the petition falls within the scope of authority to enact via initiative and whether the petition satisfies the statutory prerequisites to place the issue on the ballot, as described in division (M) of section 3501.38 of the Revised Code. The petition shall be invalid if any portion of the petition is not within the initiative power...(P) Perform other duties as prescribed by law or the rules, directives, or advisories of the secretary of state;(Q) Investigate and determine the residence qualifications of electors..."

85. Relator states the BOE relied upon an erroneous legal opinion provided by Griffin who also ignored the clear directives of the SOS in the Candidates Requirement Manual 2023, which is clear and unambiguous language to check the city charter for additional requirements. Relator reiterates, Respondents and all candidates have a clear duty to follow the directives under the Section titled, Signatures as stated above.

86. For instance, Lawler had a duty to reject the petitions filed by Jocelyn Conwell (hereinafter referred to as "Conwell") who registered as a city resident as of February 27, 2023 and an additional change on April 10, 2023. Conwell also did not submit the required three thousand (3,000) signatures when running in the *at-large* race for municipal judge and Lawler knew or should have known the two (2) prerequisites automatically disqualified Conwell in the *at-large* municipal election because the records were readily available for review. Lawler failed to review the information in the BOE's database and inform Conwell she did not meet the twelve (12) month requirement in the Charter.

87. According to BOE records, Conwell voted in the City of South Euclid November 7, 2023 and had not voted in the City of Cleveland in over thirty (30) years thereby disqualifying her as an "elector of the city" per the language of the charter.

Conwells' voter registration card indicated she had moved into the municipality in 2023 thereby disqualifying her from the twelve (12) consecutive month residency requirement to the November 2023 municipal race after being an elector of the City of South Euclid in November 2022. Relator protested Conwells' residency and Respondent Perlotti denied the protest prior to the August 29 hearing. There was no evidence Conwell had actually moved out of the South Euclid address and into Cleveland within the twelve (12) months.

88. The BOE, and Griffin who did not address the issue in his opinion, or require the Charter to be enforced, negated the provision that persons who actually voted in the municipality can be deemed an "elector" of the municipality and relied on Lawler who unlawfully certified candidates. The language of the charter does not include the language of "resident" but "elector" of the city which Conwell was not because she had not yet voted in the city and Lawler knew or should have known by a simple review of Conwells' voting records and registration cards that she had not complied with the mandates of the Charter and therefore should not have certified her in the judicial race.

89. The BOE, in the August 29, 2023 protest hearing, gave Conwell and other candidates a pass on the prerequisites of the city charter to conform with residency and signature requirements and therefore Relator seeks this High Court to issue a mandamus, an injunction, and a declaratory judgment to the BOE and Lawler.

90. Relator prays this High Court direct the BOE and Lawler to comply with the plain language of the charter and to decertify all candidates who were protested and failed to meet the "city elector" requirements, residency, and three thousand (3,000) signatures of electors prerequisites of candidates running in the municipal *at-large* elections in the city of Cleveland.

91. Relator further prays this High Court to remove the names from the ballots and voter consideration who did not comply with the plain language of the Charter.

Conclusion

Relator prays this High Court remove the blocking of the voice of the residents in the 1931 and 2019 section 3, chapter 5 prerequisites of the City of Cleveland for candidates running *at-large* within the municipality in the upcoming primaries and general elections that occurred on August 29, 2023 by Respondents and Griffin who unlawfully suspended multiple sections of the Charter and gave an unlawful pass to the candidates who failed to meet the prerequisites for running in the *at-large* municipal races for judge and clerk of courts.

The Charter section 3.15 clearly determines when general laws apply to municipal elections. When reviewing the plain language of the statute and the Charter it is clear candidates running *at-large* are required to obtain three thousand (3,000) signatures. Even if the Court were to accept the language of the statute the candidates still fell short of the legislative requirement of two hundred (200) signatures to run for any elected office in the City of Cleveland. Respondents had a duty to go beyond the legally flawed opinion of Griffin and to review the totality of the Charter which governs the municipal elections.

There is no exemption and or exclusionary language included in the statute or the Charter which rules in the instant matter and therefore Relator prays this High Court directs Respondents to meet both their statutory, ministerial, and other such legal duties imposed upon them by and through the Charter and protect the integrity of the upcoming elections and the Charter provisions governing municipal races. Relator seeks an immediate injunction to remove all candidates names that did not comply with the

Charter and for a declaratory judgment in favor of Relator which benefits all residents of the municipality who voted to have prerequisites to stop political carpetbaggers from taking over our courts.

In the interest of fair and equitable justice Relator prays this High Court render a favorable judgment because there is no other remedy available at law and assess all costs related to this action to Respondents.

Humbly submitted,

/s/ *Mariah Greshaw*, Relator, Pro se
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Certificate of Service

A copy of this Complaint was sent to the attorney of record for the Board of Elections on behalf of all Respondents via email on this 1st day of September 2023 to:

Mark Musson, Esq, attorney of Record @ mmusson@prosecutor.cuyahoga-county.us for Respondents.

/s/ *Mariah Grenshaw*, Relator, Pro se
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Cleveland, Ohio 44104
(216) 609-7554
mariahgren@gmail.com

State of Ohio)

Cuyahoga County, Ohio)

AFFIDAVIT

1. I, Mariah Crenshaw, Relator, *Pro se*, am an adult over the age of eighteen (18) and am a lifelong resident of the City of Cleveland,
2. Affiant states the facts included in this petition were made on personal knowledge and affiant is competent to testify to all matters stated in the affidavit and Complaint.
3. Relator incorporates paragraphs 1-91 above as if sully rewritten therein,
4. I further attest the exhibits are in the natural and untouched form in which they were received and or obtained through public means,
5. I attest the statements within the Petition for Writ of Mandamus are truthful and to the best of my knowledge,
6. I further attest there is no other remedy available in law to address the issues as set forth in the petition,
7. Relator has a clear legal right to requested relief and Respondents have clear legal duties to perform the requested relief as a matter of law.
8. The requisites for mandamus are well established (1) the relator must have a clear legal right to the requested relief, (2) the respondent must have a clear legal duty to perform the requested relief, and (3) there must be no adequate remedy at law. *State ex rel. Harris v. Rhodes*, 54 Ohio St.2d 41, 374 N.E.2d 641 (1978). A Relator must establish the elements for mandamus by clear and convincing evidence. *State ex rel. King v. Cuyahoga Cty. Bd. of Elections*, Slip Opinion No. 2022-Ohio-3613. Against

a board of elections, the first two elements require a court to determine whether the board engaged in fraud, corruption, or **abuse of discretion or acted in clear disregard of applicable law**. *Id.* Mandamus is an extraordinary remedy that is to be exercised with caution and only when the right is clear. It should not issue in doubtful cases. *State ex rel. Taylor v. Glasser*, 50 Ohio St.2d 165, 364 N.E.2d 1 (1977).

9. Relator states Respondent abused its discretion and has acted in clear disregard of applicable laws governing *at-large* races within the City of Cleveland and has set signature requirements in violation of both general laws and the City Charter.
10. Respondents created signature requirements for candidates not supported by general laws and the City of Cleveland Charter and accepted petitions from candidates that did not obtain the required three thousand (3,000) signatures from electors of the City when running *at-large* and failed to ensure candidates like Conwell and Majer were electors of the City.
11. Relator states the Charter section 3.15's plain language does not permit Respondents to accept fifty (50) signatures for judicial races and clerk of courts within the municipality and even if the statute prevailed all candidates would have been required to submit the same number of elector signatures as those seeking council seats which is two hundred (200).
12. Relator states the governing laws of the municipality requires those running *at-large to obtain* more than fifty (50) signatures and Lawler enforced signature requirements not supported by general laws and or the

Charter thereby unlawfully certifying candidates to elected office that did not qualify.

13. Relator states the provisions in the Charter were not enforced and Respondents have illegally certified candidates while suspending laws which they have no authority to do and have impugned the integrity of the voting process by allowing candidates to advance in the municipal races and therefore must be directed to decertify the candidates and remove their names from the ballots in the upcoming elections as a matter of law.

Affiant sayeth Naught

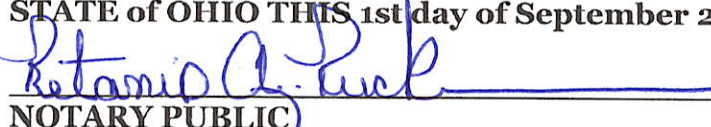
Affiant states all statements are true and accurate to the best of her knowledge and all exhibits and references are untouched and in the original form in which they were received or obtained via public access.



Affiant

9/1/2023
Date

**SWORN TO OR ATTESTED TO, AND SUBSCRIBED BEFORE ME, A
NOTARY PUBLIC IN AND FOR THE COUNTY of CUYAHOGA, AND
STATE of OHIO THIS 1st day of September 2023**



NOTARY PUBLIC



Retanio Aj Rucker, Esq.
Attorney at Law
Notary Public, State of Ohio
My Comm. Has No Exp. Date
R.C. Sec. 147.03